

Message Text

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ACTION NEA-10

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BRUSSELS FOR USEC/LABATT

PARIS FOR LABATT

E.O. 11652: N/A
TAGS: ELAB, PINS, TS
SUBJ: SOUSSE COURT DELIVERS A BOMBSHELL INSTEAD OF A
VERDICT

REF: TUNIS 5706

1. INSTEAD OF DELIVERING A VERDICT ON EVENING OF AUGUST15,
AS HAD BEEN EXPECTED, THE CRIMINAL SECTION OF THE SOUSSE
COURT OF APPEALS DECLARED THE TRIAL OF 101 UGTT DEFENDANTS
TO BE OUTSIDE ITS JURISDICTION. IN BRIEF COURTROOM
STATEMENT, PRESIDING JUDGE REPORTEDLY SAID THAT IN VIEW
OF "NATURE OF AFFAIR", QUESTION WAS NOT ONE OF GENERAL LAW
("DROIT COMMUN") OR OF COMMON COURTS. GIVEN EXISTENCE
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OF STATE SECURITY LAW OF 1968, JUDGE DISASSOCIATED HIS
COURT FROM CASE IN FAVOR OF JURIDICALLY COMPETENT TRIBUNAL,
SPECIFICALLY STATE SECURITY COURT. FOLLOWING ISSUANCE OF
HIS DECISION, JUDGE THEN REFUSED DEFENSE ATTORNEYS'
REQUEST THAT THEIR CLIENTS BE GRANTED PROVISIONAL LIBERTY,
PLACING THE ACCUSED AT DISPOSITION OF PUBLIC PROSECUTOR.

2. THIS DECISION FOLLOWED TEN DAYS OF TESTIMONY, INTERROGATION OF DEFENDANTS, AND PLEADINGS BY THE STATE AND BY DEFENSE COUNSEL. NO EXPLANATIONS WERE GIVEN, BUT THE COURT'S APPARENT REASONING WAS THAT AS THE CASE UNFOLDED, IT EXHIBITED THE INCREASING COLORATION OF A STATE SECURITY MATTER. BY IMPLICATION, THE GOVERNMENT'S ACTUAL CHARGES OF VIOLATIONS OF CRIMINAL CODE--WHICH DO FALL WITHIN THE COMPETENCE OF THE COURT--BECAME LESS AND LESS RELEVANT.

3. COMMENT. WE UNDERSTAND THAT THE COURT'S ACTION ASTONISHED THE DEFENDANTS, THEIR ATTORNEYS, OBSERVERS PRESENT IN THE COURTROOM, AND--IT WOULD APPEAR--THE GOVERNMENT. THE GOVERNMENT HAS WITHHELD ANY COMMENT. A COURT'S REFUSAL TO ACCEPT JURISDICTION AFTER A TRIAL OF THIS KIND HAS TAKEN PLACE AND RECOMMENDATION THAT CASE BE TAKEN UP BY STATE SECURITY COURT HAS NO PRECEDENT IN TUNISIAN JURIDICAL HISTORY. THE IMMEDIATE REACTION OF OBSERVERS IN SOUSSE--AND OURS AS WELL--IS THAT JUDICIAL SYSTEM HAS INDEED DEMONSTRATED ITS INDEPENDENCE FROM THE EXECUTIVE...AND TO A STARTLING DEGREE. BY DECLARING ITS INCOMPETENCE, THE COURT HAS BY IMPLICATION REJECTED THE PROSECUTION'S CASE--AT LEAST AS FAR AS GENERAL LAW IS CONCERNED. DEFENSE COUNSEL HAD ARGUED THROUGHOUT THE CASE THAT THE TRIAL WAS POLITICAL, AND IT LOOKS LIKE THE COURT HAS AGREED. THE BALL IS NOW WITH THE PUBLIC PROSECUTORS LIMITED OFFICIAL USE

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OR MORE SPECIFICALLY, THE MINISTER OF JUSTICE. ACCORDING TO THE 1968 LAW, ONLY HE CAN CALL THE STATE SECURITY COURT INTO BEING. WE WILL NOW HAVE TO SEE WHAT THE GOVERNMENT DOES, AND HOW THIS STARTLING DEVELOPMENT AFFECTS THE TRIAL OF ACHOUR AND THE OTHER EX-MEMBERS OF THE UGTT EXECUTIVE BUREAU. KING

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